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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,316	10/07/2003	Salvatore Rizzoli		3223

7590 03/14/2006
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WASHINGTON, DC 20003

EXAMINER

CHOI, STEPHEN

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/679,316	RIZZOLI ET AL.	
	Examiner	Art Unit	
	Stephen Choi	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-10 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 5-10 and 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 February 2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman (US 3,651,724) in view of Applicant's Admitted Prior Art (hereafter AAPA).

Huffman discloses the invention substantially as claimed including a cutting mechanism comprising a first conveyor (e.g., 32) having means for varying a tension of the strip comprising at least one diverter element revolving between two limit positions (e.g., 46, Figures 3-4, col. 3, lines 19-21 and 39-40) and a second conveyor (e.g. 30). It is noted that the element 46 revolves about a fixed axis parallel to an axis of the first conveyor. Merriam-Webster Online Dictionary (definition v. 3b.) revolve: to turn or roll round on an axis. Huffman fails to disclose the first conveyor being an aspirating

conveyor comprising a first suction roller. Instead, Huffman teaches the use of air nozzles associated with the second conveyor for forcing the workpiece against the outer surface of the first conveyor. However, AAPA teaches the use of aspirating conveyor as old and well known in the art for the purpose of holding the workpiece against a conveying surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an aspirating conveyor comprising a suction roller as taught by AAPA on the device of Huffman in order to facilitate holding of the workpiece against an outer surface of the first conveyor. It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant failed to traverse the examiner's assertion of official notice. See MPEP § 2144.03. Furthermore, applicant should note that the limitations "means for varying a tension of the strip" is not in compliance with the Supplemental Guidelines published in the Official Gazette on July 25, 2000. Such limitation cannot be used to invoke 35 USC 112, 6th paragraph, and have therefore been given their broadest reasonable interpretation, without considering equivalence. The "means for" must not be modified by sufficient structure for achieving the specified function.

Allowable Subject Matter

4. Claims 5-10 and 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claim 24 is allowed.

Response to Arguments

6. Applicant's arguments filed 20 January 2006 have been fully considered but they are not persuasive.

Applicants contend that Huffman does not disclose means for varying a tension of the strip because these elements do not modify to decrease the tension of the strip.

The examiner respectfully disagrees. The claim merely requires at least one diverter for varying tension of the strip. In Huffman, the tension applied to the workpiece varies from an initial contact of the element 46 and the workpiece through revolving of the element 46 until the workpiece is severed. Applicant's argument respect to the Muller reference, the examiner has determined that Huffman does teach the revolving diverter element as set forth above.

Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Thursday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc
7 March 2006


STEPHEN CHOI
PRIMARY EXAMINER